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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF _____, ARKANSAS, ADOPTING ARTICLE ____ "PUBLIC TREE CARE" AS AN AMENDMENT TO CHAPTER ___ (_____) OF THE CODE OF ORDINANCES; TO PROVIDE FOR THE CARE OF PUBLIC TREES; TO CREATE A TREE ADVISORY BOARD; TO ESTABLISH PRACTICES GOVERNING THE PLANTING, CARE AND REMOVAL OF TREES ON PUBLIC PROPERTY; TO MAKE PROVISION FOR THE REMOVAL OF DISEASED TREES ON PRIVATE PROPERTY UNDER CERTAIN CONDITIONS; PROVIDING FOR A PENALTY FOR VIOLATIONS; PROVIDING FOR SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of _____, Arkansas, recognizes that trees generally protect and enhance the quality of life and general welfare of the town; and

WHEREAS, the citizens of _____ have long valued trees as a natural and often irreplaceable community resource and recognize them as assets for their beauty and service; and

WHEREAS, the City Council of _____, Arkansas, has further determined that the protection and care of trees located on city property is essential to the present and future health, safety, and welfare of all citizens, and accordingly, have determined that the adoption and implementation of this "Public Tree Care" ordinance is meritorious and necessary.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF _____, ARKANSAS:

PART 1: Chapter ___ of the Code of Ordinances of the City of _____, Arkansas, is hereby amended to add Article ____ "Public Tree Care" to read as follows:

"Article ____. PUBLIC TREE CARE

Sec. _____. Purpose.
To enhance the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper planting and care of trees on public property, the City Council herein delegates the authority and responsibility for managing public trees, creates a Tree Advisory Board, establishes practices governing the planting and care of trees on public property, and makes provision for the emergency removal of trees on private property under certain conditions.

Sec. _____. Definitions.
As used in this Article, the following words and phrases shall have the meanings indicated:

> *Damage* – any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

Nuisance – any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety and welfare.

Parkway – the area along a public street between the curb and the sidewalk; or if there is no curb or sidewalk, the unpaved portion of the area between the street right-of-way line and the paved portion of the street or alley.

Public property – all grounds and rights-of-way (ROWs) owned or maintained by the City.

Public tree – any tree or woody vegetation on city-owned or city-maintained property or rights-of-way.

Top or *Topping* – the non-standard practice of cutting back of limbs to stubs within a tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Sec. _____. Authority and power.

(a) *Delegation of authority and responsibility.* The _____ and/or his designee, hereinafter referred to as the "Director", shall have the authority and responsibility to plant, prune, maintain and remove trees and woody plants growing in or upon all city streets, rights-of-ways, city parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.

(b) *Coordination among city departments.* All city departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Ordinance as it relates to streets, alleys, rights-of-way, drainage, easements and other public properties not under direct jurisdiction of the Director.

(c) *Interference.* No person shall hinder, prevent, delay, or interfere with the Director or his agents while engaged in carrying out the execution or enforcement of this Ordinance.

Sec. _____. Tree advisory board.

The City Council hereby creates a "Tree Advisory Board," hereinafter referred to as the "Board."

(a) *Membership.* The Board shall consist of _____ members approved by City Council. Members of the Board will serve without compensation.

(b) *Term of office.* Board members shall be appointed for _____ year staggered terms. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed by City Council.

(c) *Officers.* The Board shall annually select one of the members to serve as chair, may appoint a second member to serve as vice-chair, and may appoint a third member to serve as secretary.

(d) *Meetings.* The Board shall meet a minimum of ____ times each year. All meetings shall be open to the public. The Board chair may schedule additional meetings as needed.

(e) *Duties.* The Board shall act in an advisory capacity to the Director and shall:

(1) Coordinate and promote Arbor Day activities;
(2) Review and update a five-year plan to plant and maintain trees on city property;
(3) Support public awareness and education programs relating to trees;
(4) Review city department concerns relating to tree care;
(5) Submit an annual report of its activities to the city council;
(6) Assist with the annual application to renew the Tree City USA designation;
(7) Develop of a list of recommended trees for planting on city property; and
(8) Other duties that may be assigned by City Council.

Sec. _____. Tree planting and care standards.

(a) *Standards.* All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 "Standards for Tree Care Operations" and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.

(b) *Requirements of franchise utility companies.* Franchise utility companies shall provide advance notice to the City of their intended non-emergency tree pruning schedule and location of impacted area. The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards.

(c) *Tree species list.* The Director shall develop and maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Only trees from this approved list may be planted without written approval from the Director.

(d) *Planting distances.* The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within ten (10) feet of a fire hydrant.

(e) *Planting trees under electric utility lines.* Only trees listed as Ornamental trees on the official city tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire.

(f) *Protection of public trees during construction.* Any person, firm, corporation, or city department performing construction in the area of any public tree must employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent any damage.

Sec. _____. Adjacent owner responsibility.

(a) The owner of land adjacent to any city street or highway, when acting within the provisions of this Ordinance, may plant and maintain trees in the adjacent parkway area. Property owners are responsible for the reasonable and routine maintenance of trees and other landscaping in the adjacent parkway area.

(b) No property owner shall allow a tree, or other plant growing on his or her property or within the adjacent parkway to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the City may undertake the necessary work and charge the cost to the property owner.

Sec. _____. Prohibition against harming public trees.

(a) It shall be unlawful for any person, firm or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.

(b) It shall be unlawful for any person, firm or corporation to attach any cable, wire or signs or any other object to any street, park, or public tree.

(c) It shall be unlawful for any person, firm or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical may be exempted from this provision at the determination of the Director.

Sec. _____. Certain trees declared a nuisance.
Any tree, or limb thereof, on private property determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or that threatens public health, safety, and welfare is declared a nuisance and the City may require its treatment or removal. Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The City may remove such trees at the owner's expense if the owner does not comply with treatment and/or removal as specified by the Director within the written notification period.

Sec. _____. Violations and penalty.
Any person, firm or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars ($500.00) for each offense.

Sec. _____. Appeals.
All appeals to a violation shall be heard by City Council."

PART 2. Savings/repeal.
That all ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

PART 3. Severability.
That should any word, sentence, clause, paragraph or provision of this Ordinance be held to be invalid or unconstitutional the remaining provisions of this Ordinance shall remain in full force and effect.

PART 4. Effective date.
That this Ordinance shall become effective after its passage and publication according to law.

PASSED, APPROVED and ADOPTED by the City Council of _____, Arkansas, on this ____ day of _____, _____.

Print Completed Form

_____
Mayor

ATTEST:

_____
City Secretary

APPROVED AS TO FORM:

_____
City Attorney